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Patent

Attorney's Docket No. 005699-512

#7

AKO

5-23-03

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Patent Application of)

WATERBURY, L David, et al.)

Application No.: 10/043,659)

Filed: January 8, 2002)

For: USE OF ARYL NITRONE)
COMPOUNDS IN METHODS FOR)
TREATING NEUROPATHIC PAIN)

Group Art Unit: 1617

Examiner: HUI, San Ming R.

Confirmation No: 5999

COMMUNICATION

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

This communication is responsive to the Office Action mailed on March 10, 2003 in the above-identified patent application.

Response to Restriction Requirement

A restriction requirement has been imposed. Applicants elect to prosecute "Invention IV" at this time. This election is made subject to traverse.

Traverse

Reconsideration and withdrawal of part of the presently imposed restriction requirement is requested. Please reconsider and withdraw the restriction among inventions I, II, III and IV.

The restriction among these four groups of claims is premised on an obvious mistatement. On page 4 of the Office Action, it is stated:

"Inventions I, II, III and IV are unrelated. Inventions are unrelated if it can be shown that they are not disclosed as capable of use together and they have different modes of operation, different functions, or different effects (MPEP §806.04, MPEP §808.01). In the instant case the different inventions have different modes of operation."

Applicants' attorney is unaware of any evidence in this case which supports the statement that "In the instant case, the different inventions [I, II, III and IV] have different modes of operation". In fact they have the same activity and we used to treat the same medical conditions. If the Examiner has support for the idea that these four groups of compounds are each operating by different physiological modes of operation it needs to be made of record to support the restriction requirement.

Please examine all the claims in inventions "I, II, III and IV" at this time.

Respectfully submitted,

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